hands of the receiver. In New York, in *People* v. *Insurance Co.*, 91 N. Y. 174 the following view, adopted in this court, is taken: That the state by its actions had so paralyzed the acts of both contracting parties that performance by either party was made impossible. In the case before us, the receiver, by order of the court, had taken control of the property of the company; any interference, therefore, with his duties by the plaintiffs would have been punishable as a contempt of court. During the receivership, therefore, being unable to perform and not performing their duties, they have not earned any salary for that period, and cannot recover damages for a breach of contract when the defendant had been guilty of no breach.

JOINT NEGLIGENCE—PROXIMATE CAUSE—ORDINARY CARE—WHEELER V. GIBBON, 36 S. E. 277.—The plaintiff, in attempting to cross a city street in a violent storm, held his umbrella at his side, pointing down the street in the direction from which the storm was coming, thereby obscuring his view in that direction. He was knocked down and injured by the defendant, who was driving rapidly up the street with his oilcloth up in front of his buggy. The jury in the trial court found joint negligence, rendering a verdict for the plaintiff. *Held* on appeal that a finding for the plaintiff cannot be reviewed.

In the present case, both plaintiff and defendant were negligent, but the effect of plaintiff's negligence could have been avoided by the exercise of ordinary care on the part of defendant, which fact, the court holds, entitles plaintiff to a judgment, even though plaintiff's negligence contributed to the injury, opposing the doctrine maintained by many courts that if plaintiff's negligence contributed to the injury he is not entitled to recover. See *Railway Co.* v. *Ives*, 144 U. S., 408, and also *Neal* v. *Gilbert*, 23 Conn., 437.

MUTUAL BENEFIT INSURANCE—BENEFICIARIES—MURDER OF ASSURED—LIABILITIES OF COMPANY—SCHMIDT V. NORTHERN LIFE ASSN., 83 N. W. 800 (Ia.). —Beneficiary in a certificate of insurance murdered the assured. *Held*, that she thereby forfeited all rights under the certificate, but the company was not relieved of responsibility.

The nearest American cases in point are those where an assured has improperly designated a beneficiary, which event does not make the policy void, but the insurance becomes payable to those who would have taken it in the absence of any appointment. *Shea* v. *Assn.*, 160 Mass. 289; *Burns* v. *Grand Lodge*, 26 N. E. 443; *Britton* v. *Supreme Council*, 46 N. J. Eq. 102. The court followed the celebrated English case of *Cleaver* v. *Assn.*, (1892) 1 Q. B. Div. 17, which was much like the case at bar, and accordingly held that the certificate reverted to and became a part of the assured's estate.

NEW TRIAL—MISCONDUCT OF JUROR—BARKER ET AL V. STEWART, 36 S. E. 238.—The attorney for one of the parties, while on the street, seeing one of the jurors suffering from an ailment, suggested a certain remedy as likely to benefit him. They both entered a drug store, and the attorney paid for and procured the medicine. The attorney did not know that the man was on the jury, and the juror intended to pay for it himself. Verdict was obtained by the attorney's client, and this appeal taken to set it aside. *Held*, that, under the circumstances, the conduct of counsel and juror did not militate against the purity of jury trial, and therefore the verdict of the trial court should not be disturbed.

It was similarly held in *Railroad* v. *Wiggins*, 18 S. E. 187. Here, the plaintiff, in a suit for damages from spinal injuries, was assisted downstairs by one of the jurors during a recess of the court, after trial had begun. Such acts of courtesy and civility are but the common expression of human kindness, and should be favored rather than discountenanced.